

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 202200949	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 02/13/2022 6:50 PM	Location of Incident: § 87(2)(b)	Precinct: 34	18 Mo. SOL 8/13/2023	EO SOL 8/13/2023	
Date/Time CV Reported Mon, 02/14/2022 4:06 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 02/14/2022 4:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. SGT Bryant Harinarain	00230	943352	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Michael Quinones	29678	953282	034 PCT
2. PO Juan Hernandez	14023	935016	034 PCT
3. PO Ronald Capursi	07276	941497	034 PCT
4. PO Manpreet Singh	22544	972261	034 PCT
5. PO Eileen Langan	24205	969880	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.SGT Bryant Harinarain	Abuse: Sergeant Bryant Harinarain entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.SGT Bryant Harinarain	Abuse: Sergeant Bryant Harinarain searched § 87(2)(b) in Manhattan.	§ 87(2)(b)

### Case Summary

On February 14, 2022, § 87(2)(b) filed this complaint with the CCRB via the call processing system.

On February 13, 2022, at approximately 6:50 p.m., an individual called 911 to request police respond to the apartment § 87(2)(b) shares with his mother, § 87(2)(b) § 87(2)(b) in Manhattan. 34<sup>th</sup> Precinct Police Officers Eileen Langan, Michael Quinones, Ronald Capursi and Manpreet Singh responded to the location, as did two EMTs. At the door of the apartment, the Officers encountered § 87(2)(b) who requested a supervisor. 34<sup>th</sup> Precinct Sergeant Brian Harinarain (now of Internal Affairs), and his operator, 34<sup>th</sup> Precinct Police Officer Juan Hernandez, responded to the apartment. An officer allegedly used profanity toward § 87(2)(b) (**Allegation A: Discourtesy**, § 87(2)(g) and Sergeant Harinarain ordered officers to enter and search the apartment (**Allegations B and C: Abuse of Authority**, § 87(2)(g)).

NYPD Legal provided six body-worn camera (BWC) videos related to this incident (Board Review [BR] 01), including videos from PO Langan (BR 02), PO Quinones (BR 03), and Sergeant Harinarain (BR 04).

No arrests were made nor summonses issued during this incident.

### Findings and Recommendations

**Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

**Allegation (B) Abuse of Authority: Sergeant Bryant Harinarain entered § 87(2)(b) § 87(2)(b) in Manhattan.**

**Allegation (C) Abuse of Authority: Sergeant Bryant Harinarain searched § 87(2)(b) § 87(2)(b) in Manhattan.**

On February 13, 2022, at approximately 6:50 p.m., a female caller used a cell phone to call 911 (BR 05). She identified herself as a neighbor who wished to remain anonymous and requested officers respond to § 87(2)(b) § 87(2)(b) in Manhattan. She stated, "I'm hearing a lot of banging and stuff, and the lady next door to me, she's scared of her son and he's acting crazy and stuff. And, you know, he's - I don't know - he... I'm just hearing a lot of banging, I'm hoping she's ok." She goes on to state, "The boy, the son, sometimes the son, he's out, his mind, I don't know he's acting like he's crazy sometimes." She states, "I'm just hearing noises, unusual noises," that the son "has no respect for his neighbors," and that he has "a mental condition." (BR 05)

The Event Information relating to ICAD § 87(2)(b) does not note the anonymous complainant alleging that she heard screaming coming from inside the apartment. (BR 10).

In BWC footage from PO Langan's camera, between 02:25 and 12:08, officers arrive at § 87(2)(b) door, § 87(2)(b) refuses to open it, and he asks why officers are there. Officers inform him that someone had called 911 and alleged there was an incident at his location. § 87(2)(b) states nothing is going on and asks officers to call a supervisor, which they do. PO Quinones asks § 87(2)(b) if § 87(2)(b) mother is home and § 87(2)(b) states she is not. No officer speaks with any other civilian in that time. There are no bangs or unusual noises. (BR 02)

In BWC footage from Sergeant Harinarain's camera, he arrives the location beginning at 02:26. PO Capursi tells him § 87(2)(b) was speaking to officers through the door but would not open it. At 2:40 Sergeant Harinarain knocks on § 87(2)(b) door and identifies himself as a supervisor. § 87(2)(b) does not open the door. (BR 04)

At 4:30 of the Sergeant's BWC, an EMT tells him that they received the emergency call as, "female states she's afraid of her son." This conversation happens away from the apartment door. Sergeant Harinarain says, "He's not by himself then?" EMS says, "we're not sure, the text was all like -." Sergeant Harinarain begins walking away and cuts EMS off with "alright." He begins walking back to § 87(2)(b) door. At 10:38 Sergeant Harinarain asks PO Quinones, "Is he by himself? Ask him if he's by himself." PO Quinones replies, "he said he was before." PO Quinones calls through § 87(2)(b) door, "is your mother in there?" § 87(2)(b) says, "please, please just

back off.” PO Quinones asks again. § 87(2)(b) says, “she’s not!” PO Quinones yells, “open the door!”

Beginning at 13:27 of Sergeant Harinarain’s BWC video, § 87(2)(b) opens his door. Sergeant Harinarain states, “alright. Alright. Can you step out, talk to us real quick?” Sergeant Harinarain asks him, “you by yourself?” § 87(2)(b) says, “yeah.” PO Quinones asks § 87(2)(b) “what’s banging around in there?” § 87(2)(b) replies, “nothing, nothing.” The BWC recording captures no banging at any point. PO Quinones asks, “can somebody go into your apartment and take a look what’s going on in there?” § 87(2)(b) says, “no. There’s nothing going on.” PO Quinones asks, “where’s your mom?” § 87(2)(b) says, “she’s with my aunt right now.” PO Quinones asks, “where?” § 87(2)(b) states, “in Westchester.” PO Quinones asks, “where in Westchester?” § 87(2)(b) began speaking but is interrupted by Sergeant Harinarain. Sergeant Harinarain asks § 87(2)(b) “who else is in here?” § 87(2)(b) states, “my dog.” Sergeant Harinarain asks, “do you mind if we check?” § 87(2)(b) states, “I do mind.” Sergeant Harinarain states, “You mind if we check?” § 87(2)(b) says, “yeah.” (BR 04)

In Sergeant Harinarain’s BWC recording at 14:50, Sergeant Harinarain asks, “who else is in here?” § 87(2)(b) states, “my dog.” Sergeant Harinarain states, “Ok but you need to tell us. Anybody else in here? We gotta make sure everyone is ok. ‘Cause they said they heard screams coming from this apartment. There’s nobody else in here? We gotta make sure. Alright? Alright.” At 15:05, PO Quinones enters § 87(2)(b) apartment, as does PO Singh at 16:30. § 87(2)(b) explicitly states again that the officers did not have his permission. At no point does Sergeant Harinarain corroborate the alleged disturbance with any other civilian or by any other means. No sound is heard, including voices, coming from the apartment at any point. (BR 04)

In PO Quinones’s BWC recording beginning at 24:37, PO Quinones enters and conducts a plain view search of § 87(2)(b) apartment. There is nobody in the apartment. At 28:56, PO Quinones and PO Singh leave § 87(2)(b) apartment. (BR 03)

All other BWC recordings from this incident are materially consistent with these videos. No officer used profanity towards § 87(2)(b) during this incident. (BR 01) No loud noises, screaming, or other signs of distress/danger come from inside of § 87(2)(b) apartment while officers are on scene.

§ 87(2)(b) alleged that an officer stated, “open the fucking door.” (BR 08)

Sergeant Harinarain testified that he ordered officers to enter § 87(2)(b) apartment under the Emergency Doctrine. He stated he reviewed the information from the 911 call before he ordered officers to enter. He stated that, between the caller having stated that they heard banging, the caller stating that a woman was afraid of her son in the apartment, and § 87(2)(b) refusing to open his door, Sergeant Harinarain believed § 87(2)(b) was “not making sense,” was emotionally disturbed, and had barricaded himself in his apartment. He acknowledged the caller was anonymous and stated that he tried unsuccessfully to call her back during the incident. He stated he never heard banging while he was on scene and did not recall whether any officer stated they heard banging. He stated he did not corroborate the alleged disturbance with any other civilian. When asked if he had doubts about entering § 87(2)(b) apartment under these circumstances, Sergeant Harinarain stated, “yeah, absolutely.” He stated he gave the order to make sure nobody was hurt. (BR 09)

In People v. Hammett, 126 A.D.3d 999, the Appellate Division of the Supreme Court of New York held that officers were not justified in entering an apartment under the Emergency Doctrine where the landlord stated, in person, that she heard banging and a woman's voice coming from inside. The court held, "The mere sound of unspecified banging and a woman's voice coming from the upstairs apartment was insufficient to show that there was an emergency at hand requiring the immediate assistance of the police in order to protect life or property. The owner did not say that she heard the woman screaming or crying for help, and the officers did not observe any indicia of an emergency." [Internal citations removed] (BR 11)

In People v. Casillas, 134 A.D.3d 1394, the Appellate Division of the Supreme Court of New York held that officers did not have "reasonable grounds to believe that there [was] an

emergency at hand and an immediate need for their assistance for the protection of life or property" when responding to a potential domestic disturbance where "the People did not present any evidence that the police observed anything unusual once they arrived at defendant's apartment" and "officers testified only that they knew that defendant was inside the apartment but would not answer the door." (BR 12)

BWC footage shows that while officers did yell at § 87(2)(b) to open the door, no officer used profanity. § 87(2)(g)

The unverified 911 call about "banging" and "unusual noises" coming from § 87(2)(b) apartment and § 87(2)(b) refusal to open the door for officers § 87(2)(g)

While on scene, officers did not make observations indicative of a disturbance and did not speak with any witnesses in attempt to corroborate the allegations. § 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sergeant Harinarain has been a member of service for 15 years and has been a subject in two other CCRB complaints and two other allegations, of which one was § 87(2)(g)
  - 201115422 involved a § 87(2)(g) allegation of a discourteous word against Sergeant Harinarain. The Board recommended Charges and the NYPD imposed no penalty.
  - § 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 14, 2022, the New York City Office of the Comptroller is searching for a record of a Notice of Claim being filed in regards to this incident (BR 06)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 9

Investigator:	Christopher Olmsted	Investigator Olmsted	9/14/2022
	Signature	Print Title & Name	Date

Squad Leader:	Wassim Abedrabbo	IM Wassim Abedrabbo	09/16/2022
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date